

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

**SIERRA CLUB, WEST VIRGINIA
HIGHLANDS CONSERVANCY,
OHIO VALLEY ENVIRONMENTAL
COALITION, and COAL RIVER
MOUNTAIN WATCH,**

Plaintiffs,

v.

**CIVIL ACTION NO. 2:10-cv-00673
Hon. John T. Copenhaver, Jr.**

**ELK RUN COAL COMPANY, INC.,
INDEPENDENCE COAL COMPANY, INC.,
MARFORK COAL COMPANY, INC.,
PEERLESS EAGLE COAL COMPANY,
and POWER MOUNTAIN COAL COMPANY,**

Defendants.

NOTICE OF LODGING OF CONSENT DECREE

Plaintiffs hereby give notice of lodging of a proposed Consent Decree in the above-captioned action. The attached proposed Consent Decree has been signed by all parties and will resolve all claims alleged by Plaintiffs against Defendants in Civil Action Number 2:10-00673.

Plaintiffs lodge this proposed Consent Decree with the Court pursuant to Section 505(c)(3) of the Clean Water Act, 33 U.S.C. § 1365(c)(3). That section provides, in relevant part:

No consent judgment shall be entered in any action in which the United States is not a party prior to 45 days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator.

Id. A representative of the United States Department of Justice has informed the Parties that the United States will accept service by electronic mail and that it will provide the expiration date for

the 45-day period shortly after it receives the proposed Consent Decree. In accordance with those instructions, Plaintiffs served a copy of the proposed consent decree via electronic mail to the United States Department of Justice on May 11, 2011.

During the comment period, no action is required by the Court. If, after review and evaluation of the proposed Consent Decree and any comments received from the United States, the Court finds the Consent Decree to be fair, reasonable, and in the public interest, the Parties respectfully request that the Court enter it as expeditiously as possible.

Respectfully submitted,

/s/ Derek O. Teaney

DEREK O. TEANEY (WVSB # 10223)

JOSEPH M. LOVETT (WVSB # 6926)

Appalachian Ctr. for the Econ. & the Env't.

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Counsel for Plaintiffs

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CERTIFICATE OF SERVICE

I, Derek O. Teaney, do hereby certify that on May 11, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Robert G. McLusky
Douglas Crouse
Jackson Kelly PLLC
1600 Laidley Tower
PO Box 553
Charleston, WV 25322

/s/Derek O. Teaney